THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :25855 of 2007

DATED:04-12-2007

BETWEEN:
Yenneti Buraiah & 6 others.

..... PETITIONERS

AND

The District Collector,
Kakinada,
East Godavari District & 3 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioners; learned Government Pleader for Panchayat Raj and Rural Development; and the learned counsel appearing for the respondents.

2. Petitioners seek a writ of mandamus declaring the action of the 2nd respondent in evicting the petitioners from their thatched houses in Sy.No.27 situated at Indukurupeta village, Devipatnam mandal, East Godavari District in pursuance of the orders, dated 22-11-2007, passed under Section 6 of the A.P.Land Encroachment Act, 1905 (for brevity, 'the Act'), as illegal, and arbitrary.

3. It is the case of the petitioners that petitioners 1 to 4 are in occupation of an extent of 0.03 cents of land; 5th petitioner an extent of 0.02 cents; and petitioners 6 and 7, an extent of 0.01 cent each situated in Gokavaram road in Indukurupeta village, Devipatnam mandal. Whileso, the 2nd respondent-Tahsildar, Devipatnam issued notices under Section 7 of the Act calling upon the petitioners to submit their explanation within fifteen days as to why they shall not be summarily dispossessed. For the aforesaid notices, dated 09-10-2007, petitioners filed objections on
29-10-2007 and even before the objections are considered and disposed of, when the respondents were taking steps to

dispossess them, petitioners filed W.P.No.24034 of 2007 which was disposed of by this Court by order, dated 13-11-2007, directing the respondents not to dispossess the petitioner till final orders are passed under Section 6 of the Act.

4. It is stated that without considering the objections and without dealing with any of the contentions raised in the objections final notice has been issued under Section 6 of the Act vide proceedings, dated 22-11-2007. Against the said notice, petitioners filed an appeal before the Collector on 23-11-2007. I am of the opinion that against the orders passed by the 2nd respondent-Tahsildar, appeal lies to the Collector.

5. Collector, as defined under Section 1A of the Act, means any officer in-charge of a revenue division and includes a Deputy Collector, a Sub-Collector and an Assistant Collector. Therefore, I am of the opinion that the appeal lies to the Revenue Divisional Officer alone but not to the District Collector.

6. Having regard to the facts and circumstances of the case, petitioners are permitted to file an appeal before the Revenue Divisional Officer, Rampachodavaram within one week from today and if any such appeal is filed, *status quo,* obtaining as on today, with regard to possession of the said land shall be maintained pending disposal of the appeal.

7. Accordingly, Writ Petition is disposed of. There shall be no order as to costs.

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V.ESWARAIAH,J

04th December, 2007.

Note:

Furnish C.C. of the order
by tomorrow.

B/o

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